MONTANA LEGISLATIVE HISTORY

Chapter 114 1993

Bill H 43 S _____ Original bill & history ____C

H. Committee on Educational Cultural Resources			S. Committee on Educational Cultural Resources		
Hearing Date(s)	Jan 15	✓ C	Hearing Date(s)	Feb 05	✓ C
	Jan 22	✓ C		Feb 12	✓ C
	_____	____C		_____	____C
	_____	____C		_____	____C
Date Out	Jan 25	✓ C		Feb 13	✓ C

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

HB 40 INTRODUCED BY J. JOHNSON

REVISE CRITERIA FOR DISMISSAL OF TEACHER

12/23	INTRODUCED		
12/30	REFERRED TO EDUCATION & CULTURAL RESOURCES		
1/04	FIRST READING		
1/08	HEARING		
1/13	TABLED IN COMMITTEE		

HB 41 INTRODUCED BY DAVIS

MAKE SEED POTATO TRANSPORT EXEMPTION PERMANENT

12/23	INTRODUCED		
12/30	REFERRED TO HIGHWAYS & TRANSPORTATION		
1/04	FIRST READING		
1/06	HEARING		
1/20	COMMITTEE REPORT—BILL PASSED AS AMENDED		
1/22	2ND READING PASSED	87	8
1/25	3RD READING PASSED	87	10
	TRANSMITTED TO SENATE		
1/27	FIRST READING		
1/27	REFERRED TO HIGHWAYS & TRANSPORTATION		
2/04	HEARING		
2/09	COMMITTEE REPORT—BILL CONCURRED		
2/10	2ND READING CONCURRED	41	9
2/11	3RD READING CONCURRED	40	10
	RETURNED TO HOUSE		
2/15	SIGNED BY SPEAKER		
2/16	SIGNED BY PRESIDENT		
2/17	TRANSMITTED TO GOVERNOR		
2/19	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 57		
	EFFECTIVE DATE: 07/01/93		

HB 42 INTRODUCED BY MCCULLOCH

REQUIRE THAT PAY FOR SCHOOL ADMINISTRATORS BE BASED ON HIGHEST TEACHER PAY

12/23	INTRODUCED		
12/30	REFERRED TO EDUCATION & CULTURAL RESOURCES		
12/31	FISCAL NOTE REQUESTED		
1/04	FIRST READING		
1/11	FISCAL NOTE RECEIVED		
1/11	FISCAL NOTE PRINTED		
1/15	HEARING		
1/15	TABLED IN COMMITTEE		

HB 43 INTRODUCED BY MCCULLOCH

REPEAL GRANDFATHER CLAUSE FOR SCHOOL ADMINISTRATOR TRANSFER WITH PAY CUT

12/23	INTRODUCED		
12/30	REFERRED TO EDUCATION & CULTURAL RESOURCES		
1/04	FIRST READING		
1/15	HEARING		
1/26	COMMITTEE REPORT—BILL PASSED		
1/28	2ND READING PASSED	77	22
1/30	3RD READING PASSED	76	19
	TRANSMITTED TO SENATE		
2/02	FIRST READING		

2/02	REFERRED TO EDUCATION & CULTURAL RESOURCES		
2/05	HEARING		
3/01	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/02	2ND READING CONCURRED	49	0
3/03	3RD READING CONCURRED	47	1
	RETURNED TO HOUSE WITH AMENDMENTS		
3/06	2ND READING AMENDMENTS CONCURRED	85	14
3/09	3RD READING AMENDMENTS CONCURRED	93	5
3/12	SIGNED BY SPEAKER		
3/12	SIGNED BY PRESIDENT		
3/15	TRANSMITTED TO GOVERNOR		
3/18	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 114		
	EFFECTIVE DATE: 03/18/93		

HB 44 INTRODUCED BY EWER

ALLOW INVESTMENT OF MAINTENANCE DISTRICT FUNDS

12/23	INTRODUCED		
12/30	REFERRED TO LOCAL GOVERNMENT		
1/04	FIRST READING		
1/05	HEARING		
1/13	COMMITTEE REPORT—BILL PASSED		
1/16	2ND READING PASSED	84	10
1/18	3RD READING PASSED	91	8
	TRANSMITTED TO SENATE		
1/20	FIRST READING		
1/20	REFERRED TO LOCAL GOVERNMENT		
2/09	HEARING		
2/12	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
2/15	2ND READING CONCURRED	49	0
2/16	3RD READING CONCURRED	49	0
	RETURNED TO HOUSE WITH AMENDMENTS		
3/03	2ND READING AMENDMENTS CONCURRED	98	1
3/05	3RD READING AMENDMENTS CONCURRED	98	2
3/10	SIGNED BY SPEAKER		
3/12	SIGNED BY PRESIDENT		
3/15	TRANSMITTED TO GOVERNOR		
3/18	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 101		
	EFFECTIVE DATE: 03/17/93		

HB 45 INTRODUCED BY PAVLOVICH

PROVIDE FOR STAGGERED TERMS FOR BOARD OF ATHLETICS MEMBERS

BY REQUEST OF DEPARTMENT OF COMMERCE

12/23	INTRODUCED		
12/30	REFERRED TO BUSINESS & ECONOMIC DEVELOPMENT		
1/04	FIRST READING		
1/06	HEARING		
1/07	COMMITTEE REPORT—BILL PASSED AS AMENDED		
1/11	2ND READING PASSED	98	0
1/12	3RD READING PASSED	97	0
	TRANSMITTED TO SENATE		
1/14	FIRST READING		
1/14	REFERRED TO BUSINESS & INDUSTRY		
1/19	HEARING		
1/19	COMMITTEE REPORT—BILL CONCURRED		
1/20	2ND READING CONCURRED	48	0

EXECUTIVE ACTION ON HB 42

Motion/Vote: **REP. SPRING MOVED HB 42 BE TABLED.** Motion carried unanimously.

HEARING ON HB 91

Opening Statement by Sponsor:

REP. JOHNSON, House District 23, Glendive, said HB 91 would allow school districts to apply any of their reappropriated general fund dollars either to the general fund permissive amount or to the district levy.

Proponents' Testimony:

Don Waldron, Montana Rural Education Association, stood in support of the bill. He stated it would give schools the flexibility to better manage their finances. He said schools would be able to save money rather than, as required, spend it or lose it by the last day of each year.

Bruce Moerer, Montana School Boards Association, asked for favorable consideration of the bill.

Loran Frazier, School Administrators of Montana, asked the committee to vote favorably on HB 91.

Opponents' Testimony: None.

Questions From Committee Members and Responses:

REP. SPRING asked the sponsor if there is a limit to the amount of money that can be transferred. He pointed out line 24, page 1 which contains the language, "any additional general fund budget amount..." **REP. JOHNSON** replied the issue is covered by current law.

Closing by Sponsor:

REP. JOHNSON asked for favorable consideration of HB 91. He stated it is a management tool that could help districts to reduce their voted and/or permissive levy amounts.

HEARING ON HB 43

Opening Statement by Sponsor:

REP. MCCULLOCH, House District 96, Billings Heights, indicated HB 43 is similar to HB 105 passed in the 1991 Legislative Session. He stated HB 43 would remove the grandfather clause contained in the present law. House Bill 43 states any administrator would

receive teacher salary upon return to the classroom, if they lost their administrative position because of financial reasons. He explained with the present grandfather clause in place, almost no-one is affected. **REP. MCCULLOCH** said administrators would not lose seniority and would be considered first for open administrative positions. He insisted a person should get paid for the position for which they were hired, and if the position changes the salary should change as well. House bill 43 would not affect administrators presently in the classroom.

Proponents' Testimony:

REP. NELSON, House District 19, Medicine Lake, said salary assurances within school districts make it very difficult for school boards to keep taxes down. She asked the committee to consider the extra financial burden put on the public because of the grandfather clause. She requested favorable consideration of HB 43.

Steve Henry, Billings Education Association, said HB 43 is an equity bill. He maintained the present law is discriminatory and does not allow schools to make the most efficient use of their money in times of fiscal stress. He asked the committee to give favorable consideration to HB 43.

Eric Feaver, Montana Education Association, noted strong support of HB 43 and commended **REP. MCCULLOCH** for introducing the piece of legislation.

Bruce Moerer, Montana School Boards Association, stating that although MSBA is not completely in favor of the bill, the association believes it is financially necessary. He requested the committee to vote favorably on HB 43.

Jerry Rukavina, Great Falls Education Association, said it would be irresponsible not to pass HB 43.

Scott McCulloch, Billings, requested favorable consideration of HB 43.

Tricia McMorris, Montana Education Association, Glasgow, stood in support of HB 43.

REP. MENAHAN, House District 67, Anaconda, asked to go on record in support of HB 43.

Wanda Grinde, Montana Education Association, Canyon Creek School, Yellowstone County, requested favorable consideration of HB 43.

Conrad Stroebe, President of Montana School Boards Association, asked the committee to vote in favor of HB 43.

REP. DOLEZAL, House District 34, Great Falls, asked to go on record in support of HB 43.

Opponents' Testimony:

Loran Frazier, School Administrators of Montana, explained the grandfather clause was included in the 1991 bill (HB 105) for reasons of fairness and equity. He remarked that individuals who are not part of the collective bargaining unit in the district have no seniority rights upon transferral. He stated a principal who is moved back into the classroom, with twenty years of administrative experience, could be the first teacher to lose her/his job if positions were eliminated. **Mr. Frazier** said real economic hardship could be recognized by those individuals accustomed to a higher salary.

Jim Wood, Principal of Sidney High School, stressed HB 43 could put present administrators in financial jeopardy.

Darrell Rud, Principal of Rimrock Elementary School, Billings, said quality schools are led by quality principals and administrators. He announced small schools would suffer if HB 43 were in place. **Mr. Rud** said qualified and committed individuals would be discouraged from taking positions at small schools in Montana. He urged the committee to oppose HB 43.

Ernie Jean, Superintendent of Schools, Florence-Carlton School District, Ravalli County, stood in opposition to the bill, indicating it would be a risk to administrators in smaller districts.

Steve Bradshaw, Principal of Red Lodge High School, Carbon County, asked the committee to oppose HB 43.

Bruce Whitehead, Principal of Hellgate Elementary, Missoula, stated the bill has a negative bent toward administration.

Scott Maks, Assistant Principal of Fergus High School, Lewistown, asked to go on record in opposition to HB 43.

Questions From Committee Members and Responses:

REP. GERVAIS asked **REP. MCCULLOCH** if he believes the bill is fair. **REP. MCCULLOCH** responded he does.

REP. DAILY asked the sponsor if the bill would encourage the hiring of out-of-state individuals. **REP. MCCULLOCH** replied he failed to see how. He said the bill is designed to handle problems which arise during crisis situations. **REP. DAILY** asked **REP. MCCULLOCH** to respond to the situation where administrators can lose seniority if they haven't previously taught in a district even if they have many years of administrative experience. **REP. MCCULLOCH** answered that seniority within a district can be maintained.

REP. DAILY asked Bruce Moerer to respond to the previous question. **Mr. Moerer** said seniority depends upon collective

bargaining agreements, not on statutes. **REP. DAILY** asked if districts with collective bargaining agreements for administrators would still have the ability to negotiate on seniority rights. **Mr. Moerer** said it is against present law for administrators to form unions. He said administrators cannot negotiate conditions into teachers' collective bargaining agreements. **REP. DAILY** asked if administrators can negotiate seniority into their own collective bargaining units. He asked if state law would take precedence over a negotiated contract. **Mr. Moerer** indicated a negotiated contract can contain stronger language than state law.

REP. DAILY asked **Eric Feaver** if MEA has any bargaining agreements which allow principals to retain their seniority upon returning to the classroom. **Mr. Feaver** replied in the affirmative. He said the Billings Education Association was a prime example.

REP. DAILY commented on the discrepancies in the testimonies of MEA and MSBA and asked that consideration of the bill be held until those questions are addressed.

REP. SIMPKINS asked **Conrad Stroebe** if there was a case in Billings where an individual taught in a classroom, became an administrator, and then went back to the classroom retaining the seniority they earned as an administrator. **Mr. Stroebe** said he was familiar with examples where this was the case and that they were the result of contract agreements in existence two years ago. **REP. SIMPKINS** reported he was familiar with a district where the senior principals were the ones moved back into the classroom while the junior principals retained their positions. He asked if this occurred in the Billings district. **Mr. Stroebe** replied he could not speak for the district as a whole.

REP. HANSON asked **Mr. Stroebe** if the cases to which he referred regarding the retention of seniority occurred under the grandfather clause. **Mr. Stroebe** replied they did not because the budget cuts in question occurred in 1988, before the legislation of 1991 was passed.

REP. ROSE asked **Mr. Whitehead** if administrators had the right to bargain with school boards. **Mr. Whitehead** responded he knew of very few principals who bargain officially with their school boards. He stated he was not included in his own district's bargaining unit and that inclusion is entirely dependent upon individual school districts.

REP. ELLIS asked **Mr. Whitehead** if it was his opinion all of state funding for grades K-12 comes from the general fund. **Mr. Whitehead** responded state equalization aid (SEA) contributes as well.

REP. HANSON asked how many individuals are affected by the bill. **Loran Frazier** replied he did not have a specific number, but he understood the number was small. **Eric Feaver** remarked no-one has

been affected yet. He explained HB 43 does not affect anyone in the classroom already drawing an administrator's salary.

REP. HANSON explained the bill would repeal one sentence in section 4, chapter 204, 1991.

REP. BRANDEWIE asked **Mr. Frazier** how many people would be affected by the bill if cuts were made. **Mr. Frazier** said it depends on the financial bills to pass the House and Senate.

Closing by Sponsor:

REP. MCCULLOCH stated the reason the grandfather clause was put on originally was not because of fairness. He called attention to the fact that teachers are the leaders of education. **REP. MCCULLOCH** said seniority can be included into district negotiations in a like manner to the Billings District contract. He commented HB 43 is accountable to the taxpayers and is the best use of taxpayer money. **REP. MCCULLOCH** stated if the bill does not pass, it is clear all of the cuts facing education will take place in the classroom. He asked for the committee's serious consideration and support of HB 43.

EXECUTIVE ACTION ON HB 48

Motion: **REP. BRANDEWIE** moved to amend HB 48.

Discussion:

REP. BRANDEWIE said the amendment would allow districts to circumvent the percentage turn-out requirements for a bond issue. He commented that districts could choose to hold an election one of two ways. One way would be by a mail ballot vote. The other method would be to notify all voters by mail of the bond issue and then to accept the majority of voters who turn out for the election. **EXHIBIT 1**

REP. HARRINGTON asked if mail ballots are acceptable. **REP. HANSON** said they are lawful.

REP. DOLEZAL asked **Andrea Merrill** to define the difference between absentee and mail ballots. **Ms. Merrill** said there are limits on the use of mail ballots. She explained mail ballots can be used for issues and bond propositions, but not to elect individuals into office. **Ms. Merrill** noted that with mail ballots, every elector gets a ballot in the mail, whereas absentee ballots are sent only at an individual's request.

REP. HANSON commented he believed Bozeman succeeded in having such a resolution pass. He noted the resolution was successful because the community had a hard time producing required percentages when students at the university left town.

HOUSE OF REPRESENTATIVES

Education and Cultural Resources COMMITTEE

ROLL CALL DATE 1/15/93

NAME	PRESENT	ABSENT	EXCUSED
REP. SONNY HANSON , CHAIR	✓		
REP. ALVIN ELLIS , VICE-CHAIR	✓		
REP. DIANA WYATT , VICE-CHAIR	✓		
REP. RAY BRANDEWIE	✓		
REP. FRITZ DAILY	✓		
REP. ERVIN DAVIS	✓		
REP. ED DOLEZAL	✓		
REP. DAN HARRINGTON	✓		
REP. JACK HERRON	✓		
REP. BOB GERVAIS	✓		
REP. BEA MCCARTHY		✓	
REP. SCOTT MCCULLOCH	✓		
REP. NORM MILLS	✓		
REP. BILL REHBEIN	✓		
REP. SAM ROSE	✓		
REP. DICK SIMPKINS	✓		
REP. WILBUR SPRING	✓		
REP. NORM WALLIN	✓		

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

Education & Cultural Resources COMMITTEE BILL NO. HB 43

DATE 1/15/93 SPONSOR(S) REP. McCulloch

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Jan Riebhoff	MAEMPS/SAM		X
Darrell Rud	MAEMSP/SAM		X
Marsha Davis	MAEMSP		X
Stem Heney	GEA	X	
MARVIN CARTER	MAEMSP		X
Sally McCulloch		X	
Robert E. Western	MAEMSP		X
Linda Grande	MEA	X	
David Brattain	MEA	X	
Tricia McMonigle	MEA	X	
Joe Brockhurst	MEA	X	
Bruce W. Moerer	MSBA	X	
Lynne Vermeulen	MAESP/SAM		X
Marilyn Dolger	MAESP/SAM		X

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

Education COMMITTEE BILL NO. HB 93

DATE 1/15/93 SPONSOR(S) Rep. McCulloch

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Merry Fahrman	MAEMSP/SAM		X
Steve Bradshaw	MASSP / SAM		X
Tim Dunn	MASSP / SAM		X
Jim Lloyd	MASSP / SAM		X
Tammy Lacey	MAEMSPS SAM		X
SD Dicks	MASSP/SAM		X
Alicia Duncan	Gt. Falls MAEMSP/SAM		X
Shelly Meadows	MAEMSP/SAM		X
Romona Stout	MMSA		
Jo Dunn	MAS MSP		X
Vivian Hale	MAEMSP		X
Ken Miller	Ass Lewis Schools		X
Kathy Padso	MAEMSD		X
Sandra L Scott	WHITE SULPHUR SPRINGS SCHOOLS		X

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

Education COMMITTEE BILL NO. HB 93

DATE 1/15/93 SPONSOR(S) Rep. McCulloch

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
[illegible] Helena	MACSP / [illegible]		X
Jane Slattery	MEA/MEA	X	
Dennis Carlson	MEA	X	
Dan K [illegible]	EPSCEA/MEA	X	
Stan A. [illegible]	MEA/SEA	X	
[illegible]	MEA/WEA	X	
Lonnie Smith	MEA/KPEA	X	
[illegible]	MEA	X	
Lynn Allison	MEA	X	
Jerry Rukavina	MEA	X	
Ernie Jean	Florence-Carlton Schools		X
[illegible] Allison	Self	X	
Conrad F Strocher	MSBA	X	
Janice Whitehead	Hellgate Elementary Sch		X

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

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HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

Education COMMITTEE BILL NO. HB 43

DATE 1/15/93 SPONSOR(S) Rep. McCulloch

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Lorna Frazier	SAM		—

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

REP. MILLS asked for the amount of money spent annually on this program. **Ms. Gray** responded she did not have the exact figure, but went on to explain money is diverted from traffic fines to reimburse schools on a per student basis for the number of students who have successfully completed driver's education. She said OPI ensures the amount reimbursed per student is not reduced from the last year it was held. **Ms. Gray** stated the amount at the time the program came into effect was approximately $140 per student, and is now the same.

Closing by Sponsor:

REP. TUSS thanked the committee for its consideration and urged passage of HB 194.

EXECUTIVE ACTION ON HB 43

Motion: **REP. MCCULLOCH MOVED HB 43 DO PASS.**

Discussion:

REP. DAVIS stated he is violently opposed to the bill. He stressed these regulations should be considered during contract negotiations. He suggested all teachers should be offered a teacher's contract and that administrative and/or coaching duties should exist as supplemental contracts. **REP. DAVIS** said when those other duties cease, that portion of the contract should expire and the individual should go back into the classroom if they are automatically rehired. He stated there are schools which offer separate contracts for separate duties, and stressed he does not support legislation on issues which should be addressed during negotiations at individual schools.

REP. DAILY said only 40% of the school districts in Montana have a stipulation in their contract allowing an administrator to retain the same seniority a teacher would earn for the same amount of time in the district.

REP. MCCULLOCH distributed sample contracts from schools which allow administrators to retain seniority earned during their time as administrators, when and if they are hired back into the classroom. He stated **REP. WANZENRIED's** bill and the governor's bill cannot be implemented if HB 43 does not pass. Sample contracts were provided. **EXHIBIT 2**

REP. BRANDEWIE said he supports the bill, stating it would be better to have an individual in a district adjust to a lower salary than to have other individuals lose their jobs altogether. He said HB 43 potentially would allow more individuals to retain positions within each district. He emphasized the bill deals with fairness and reality.

REP. SPRING noted his support of the bill. He said it could save a district a good deal of money.

REP. DOLEZAL spoke in support of the bill, but suggested the concerns covered in the bill should be a part of school negotiations as noted by **REP. DAVIS.** He said schools are often not able to recognize savings when they are required to hire an individual at a high salary and are often forced to fire teachers to create a position for a former administrator.

REP. SIMPKINS stated he does not support HB 43 because there are contracts in existence which do not guarantee the retention of administrative experience when considering seniority.

REP. MILLS said he supports the bill because individuals should be paid in accordance to the responsibilities of their job.

REP. ELLIS stated contracts are likely to change upon the passage of this bill.

REP. MCCULLOCH addressed **REP. SIMPKINS** concerns with the bill, and said HB 43 states that outside the teachers union, administrators shall maintain seniority.

REP. HANSON indicated he opposes HB 43 because of a bill already passed requiring administrators to go back to teacher's salary. He stated he has difficulty with individuals who have been with the system for perhaps twenty years and who are kicked out of the system because the district contract does not recognize their seniority.

Vote: **HB 43 DO PASS.** Motion carried 12 to 6 with **REPS. SIMPKINS, GERVAIS, HARRINGTON, DAVIS, DAILY,** and **HANSON** voting no. **EXHIBIT 3**

EXECUTIVE ACTION ON HB 105

Motion: **REP. MCCULLOCH MOVED HB 105 DO NOT PASS.**

Discussion: **REP. MCCULLOCH** stated HB 105 creates another unnecessary reserve. He said the bill would account for roughly 2.2 million dollars in Billings alone. He commented neither the legislature nor the taxpayers are interested in creating another reserve.

REP. WALLIN stated, with the limitations put on the amount schools can have in their reserves, he sees no reason for the bill.

Vote: **HB 105 DO NOT PASS.** Motion carried 11 to 7 with **REPS. GERVAIS, HARRINGTON, DAVIS, DAILY, BRANDEWIE, ELLIS,** and **HANSON** voting no. **EXHIBIT 4**

HOUSE STANDING COMMITTEE REPORT

January 25, 1993

Mr. Speaker: We, the committee on Education and Cultural Resources report that House Bill 43 (first reading copy -- white) do pass .

Signed: _____

Sonny Hanson, Chair

Committee Vote:

EXHIBIT 2
DATE 1/22/93
HB 43

ARTICLE XIV: REDUCTION IN FORCE

14.1 PROCEDURE

In the event the School District determines to reduce staff the provision of the Article shall apply.

14.2 DEFINITION

A. Teacher: The term teacher used herein shall refer only to tenured teachers, regularly employed at least half time by the School District.

B. Qualified: Qualified means a tenured teacher who is certified by the State Department of Public Instruction for a position established by the School District, and who has taught in such subject matter category for at least one semester within the last 5 years while a member of the Havre School District.

C. Subject Matter: Subject matter shall mean such categories as are determined by the State Department of Public Instruction for certification purposes.

D. Days: Means teacher duty days, unless otherwise stated.

14.3 SENIORITY

A. Seniority shall mean the number of days of continuous service of the regular school year (excluding summer session and extended employment), commencing with the first day of actual service with the School District including authorized leave of absences allowed by the School District pursuant to this Agreement.

B. Probationary teachers shall not acquire seniority until such teacher acquires tenure and upon acquisition of tenure, the seniority date shall relate back to his/her first day of continuous service. Long term substitute service under contract, immediately prior to regular contract service shall be counted toward a teacher's seniority.

C. In determining the list of seniority, an employee whose employment has been legally terminated by resignation, or terminated but whose employment was subsequently reinstated without interruption, shall be deemed to be continuous service.

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D. Certified teachers employed by the School District in professional positions outside the teachers's unit, i.e.,

administrators, shall maintain seniority in the teacher' unit consistent with total teaching service in the Schoc District provided the administrative employee is qualifie and certified as described herein.

E. In the event that seniority is equal for purposes o layoff, the second order will be determined by th educational placement on the salary schedule. The fina order, if needed, shall be determined by lot.

14.4 SENIORITY LIST

A. On or about December 1 of each school year, the Schoc District shall cause a seniority list, (by name, date o employment, qualification, and certification), to b prepared from its records. It shall thereupon post suc list in an official place in each school building.

B. Any person whose name appears on such list, and who ma disagree with the findings of the School District, and th order of seniority on said list, shall have fourteen (14 days from the date of postings, to supply writte documentation, proof and request for seniority change, t the School District's Superintendent's Office.

C. Within fourteen (14) days thereafter, the Schoc District shall evaluate any and all such writte communications regarding the order of seniority containe in said list, and make such changes as the School Distric deems warranted. The final seniority list shall thereupo be prepared by the School District, and shall be posted i each school building. Such list shall be binding on th District and all teachers shown thereon. Each yea thereafter, the School District shall cause such seniorit list to be updated. Such list shall govern the applicati of Reduction in Staff, Article XIV, until thereaft revised.

D. Any person disagreeing with the final seniority lis prepared pursuant to subd. C. above may pursue the matt through the Grievance Procedure provided by Article XI.

14.5 VOLUNTARY LAYOFF

Senior teachers may accept voluntary lay-off during period when the School District is placing tenured teache on layoff. Teachers accepting voluntary layoff will, as all teachers on layoff, continue to accrue seniorit Voluntary layoff, shall be for a period of the succeedi school year unless altered by mutual agreement. Teache wishing to be recalled from voluntary layoff for the ne

HB43

(2)

EXHIBIT 2
DATE 1/22/93
SB HB 43

Billings Education Association Contract

ARTICLE XVIII
REDUCTION IN STAFF

Section 3. Seniority:

Subd. 1. Seniority shall mean the number of days of continuous service of the regular school year (excluding summer session and extended employment), commencing with the first day of actual service in the School District including authorized leave of absences allowed by the School District pursuant to this Agreement.

Subd. 2. Probationary teachers shall not acquire seniority until such teacher acquires tenure and upon acquisition of tenures, the seniority date shall relate back to a teacher's first day of continuous services. Continuous service shall include a teacher who is under contract for more than ninety (90) days in a single school year. Long term substitute service under contract, immediately prior to regular contract service, shall be counted toward a teacher's seniority.

Subd. 3. In determining the list of seniority, an employee whose employment has been legally terminated by resignation, or terminated but whose employment was subsequently reinstated without interruption, shall be deemed to be continuous service.

Subd. 4. Certified teachers employed by the School District in professional positions outside the teacher's unit, i.e., administrators, shall maintain seniority in the teacher's unit consistent with total administrative and teaching service in the School District, provided the administrative employee is qualified and certified as described herein.

Subd. 5. In the event that seniority is equal for purposes of layoff, order of seniority shall be determined by lot.

8.11 REDUCTION IN FORCE

a. A Reduction in Force and the term "layoff" as used herein shall mean any suspension from employment arising out of a reduction in the teacher work force of the District, and shall be separate and distinct from the terms retirement, resignation, non-renewal, discharge, dismissal, or termination.

b. Grades 7-12 and Grades K-6 shall be considered as separate units for purposes of this section so that the layoff procedure with respect to one such unit shall not apply to other units.

c. Non-tenured teachers shall be excluded from this Reduction in Force provision.

d. If the layoff affects a particular educational program or unit, layoffs will be confined to personnel employed in such program or unit. However, nothing shall be interpreted or applied so as to prohibit the Board from assigning laid off personnel to positions in other units or programs, for which they are qualified, held by less senior teachers.

e. Definition - Seniority shall be defined as the total length of continuous service, including full credit for service of less than a full duty day or service of less than a full contract year, if a teacher has signed a contract for the ensuing school year with the District. Seniority shall accrue from the date of employment. Seniority will not be broken by approved leaves of absence. Seniority will not be broken by employment by the Board in a position outside the appropriate unit if the Board required certification/license for employment in that position. In the event of identical dates of employment, those holding advanced preparation as of November 15, 1985, shall have precedent. In the event of both identical dates of employment and advanced preparation, rank shall be determined by lot. This order once established shall not change. Teachers hired after November 15, 1985, shall accrue seniority solely by date of hire.

f. Loss of Seniority - A teacher shall lose his seniority for any of the following reasons:

   1) if teacher is dismissed and not subsequently reinstated.

   2) if teacher retires.

   3) if teacher resigns.

   4) if teacher overstays a leave of absence without obtaining an extension of the leave.

   5) If a teacher declines an offer of recall to the previous-held positions or an equivalent position.

g. Seniority List - A seniority list shall be prepared by the Board at least once a year not later than January 1. Needed corrections to this list shall be presented to the Board in writing prior to January 20. Corrections after this date may be made only with the written agreement of the Board. A copy of this list shall be provided to the Association and shall be available in all buildings for review during regular working hours.

h. When a reduction in force takes place, the least senior teacher shall be laid off first, provided that the least senior teacher does not have experience and qualifications that are substantially greater than a more senior teacher. If the less senior teacher has such experience and qualifications, a more senior teacher shall be laid off first.

EXHIBIT 3
DATE 1/22/93
HB 43

HOUSE OF REPRESENTATIVES

Education and Cultural Resources COMMITTEE

ROLL CALL VOTE

DATE 1/22/93 BILL NO. HB 43 NUMBER

MOTION: DO PASS

NAME	AYE	NO
Rep. Sonny Hanson - Chair		✓
Rep. Alvin Ellis - Vice Chair	✓	
Rep. Diana Wyatt - Vice Chair	✓	
Rep. Ray Brandewie	✓	
Rep. Fritz Daily		✓
Rep. Ervin Davis		✓
Rep. Ed Dolezal	✓	
Rep. Dan Harrington		✓
Rep. Jack Herron	✓	
Rep. Bob Gervais		✓
Rep. Bea McCarthy	✓	
Rep. Scott McCulloch	✓	
Rep. Norm Mills	✓	
Rep. Bill Rehbein	✓	
Rep. Sam Rose	✓	
Rep. Dick Simpkins		✓
Rep. Wilbur Spring	✓	
Rep. Norm Wallin	✓	

12 6

MINUTES

MONTANA SENATE
53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON EDUCATION

Call to Order: By Senator Blaylock, on February 5, 1993, at 1:04 p.m.

ROLL CALL

Members Present:
Sen. Chet Blaylock, Chair (D)
Sen. Harry Fritz, Vice Chair (D)
Sen. Bob Brown (R)
Sen. John Hertel (R)
Sen. Dennis Nathe (R)
Sen. Spook Stang (D)
Sen. Daryl Toews (R)
Sen. Mignon Waterman (D)
Sen. Bill Wilson (D)

Members Excused: Senator Yellowtail

Members Absent: None.

Staff Present: Eddye McClure, Legislative Council
Sylvia Kinsey, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:
Hearing: HB 43
HB 194

Executive Action: HB 194

HEARING ON HOUSE BILL 43

Opening Statement by Sponsor:

Representative Scott McCulloch, House District 96, Billings explained his bill by saying two years ago the Legislature passed HB 105 that Rep. Linda Nelson carried. Previous to this time if an administrator was laid off due to financial reasons and went into a classroom as a teacher, they retained their administrators salary even though they were teaching students. At the present time the law says any increase that comes to the administrators, as a teacher, that is the increase they will receive. Two years ago we passed a bill that said any administrator that goes into a teaching position, now retains the teachers salary if they were

an administrator that was hired after October 1991 into the administrative position. A teacher could be teaching a class at a teacher's salary and across the hall an ex-administrator could be teaching the same class but with a much higher salary. He handed out information to the committee. (exhibit 1, 2 and 3 and 5)

Proponents' Testimony:

Representative Linda Nelson, House District 19, Medicine Lake, spoke in favor of the bill on the basis of fairness. School boards are accountable to the taxpayers, laws that require salary assurances are hard to justify and taxpayers resent paying $17,000 more for an administrator to teach kids than the other teachers receive. She urged the committee to support this bill.

Cathy Carlson, Billings Educational Association, said the present law creates two classes of people. Two teachers do the same job and one of them is making $10,000 or so more than the other. This defies the idea of equal pay for equal work.

Bill Scroni, 30 years of teaching, gave an example of the salary disparity. He said in the Billings West High School, if they hired a physics teacher at the beginning level and that teacher had a Masters degree and we hired an administrator with a Masters degree, starting level, and if that administrator were cut and put back in the classroom, the disparity in salary over ten years would be over $200,000. He said the second thing he felt was really important was that we should put the emphasis back on the student since that is the common ground for all of us. He said the savings in the example he gave would provide one other teacher to the classroom, where it is needed. Administrators cannot have it both ways, we have had administrators in Billings retire from administration and the next day be hired back as contract management people to do quasi administrative work within our school district.

Jerry Ruckavino, Great Falls Education Association, parent and taxpayer said he believed Mr. McCullough had phrased the issue very correctly in saying it is an issue of fairness. He did not want his local school board faced with the choice of cutting two teachers or moving one administrator back into the teaching ranks.

Bruce Moerer, Montana School Boards Association said this was their bill last time and they support this bill now. He addressed the issue of seniority representation. It is true that not every district in the state grants seniority to it's teachers through collective bargaining agreement and those are things that should be negotiated locally. Tenured teachers do have some form of protection because they can bump non-tenured teachers in areas where they are endorsed. He believed the administrators would request an amendment to the bill that would allow the administrators to have seniority protection for years of service

as an administrator only in those instances where those districts already have seniority for their teachers. He said if that was the context of the amendment the MSBA would not object to it because it would not do any more than was done locally.

Garth Cox, teacher in the Polson School District said their school district does have a RIF (Reduction in Force) program. It is seniority based and they do have a choice in finding which teachers are going to be RIF'd. If we are going to have a cut in our foundation program become a reality, we are interested in the fact that we want fairness. Their base salary for a teacher is $16,000 and the base salary for an administrator is $45,000.

Dennis Carlson, Teacher, Hellgate Project Schools said they have a small school with 45 full time teachers, 4 full time administrators and one teacher that was an administrator, was moved back to the teaching rank and is paid an administrator's salary.

Julie Hasler, Helena Education Association, teacher, said we have all heard our Governor charge us with trying to cut administrative costs in the state and it is hard to do when we have to send an administrator back to teach at their former salary.

Don Long, Great Falls High School Teacher, said he supported House Bill 43 for the same reasons as those who have spoken.

Betty Thompson, President, Kalispell Education Association and a teacher of 20 years said she concurred in the reasons given in support of this bill.

Valerie Sampson said she was also a teacher in Kalispell and also supported this bill for the reasons given.

Eric Feaver, MEA, said the MEA supports this bill and did support House Bill 105 in the last session. They believe this bill finally does the job. He pointed out that maintaining an administrators salary when returned to a teachers position is not a birth right. Prior to a court case a decade ago, this did not happen, now with financial sources what they are in the state, he believed this should go back to an issue of fairness.

Opponents' Testimony:

Loren Frazier, School Administrators of Montana (SAM), said one of the reasons he had to be an opponent was because this was a compromise that was previously given. He believed any teacher who was sitting in the room would not like to negotiate for any less than they had before and that is basically the principle the principals are being put in. He referred to the issue of salary disparity, and pointed out there are $18,000 teachers and $30,000 teachers that is twice the amount, who teach the same subject and the same grade level. He said he had two amendments which had

been given to the staff member. His proposed amendment is attached. (exhibit 4)

Darrell Rud, Principal, Rimrock Elementary in Billings, and represents nearly 300 elementary and middle school principals said educational research points out the importance of the principal in effective schools said when good principals work colaboratively with good teachers, good staff, good kids and good communities, quality education continues.

Cindy Holtz, Elementary Principal, Billings, said the proponents of the bill would have you believe they are only interested in fairness and equity and she would take exception to that statement. She had seen many of the senior members of their teaching staff, during contract negotiation time, say that they would rather have a raise and watch their lesser paid colleagues get the axe than to take a pay freeze and have those people stay on board. She felt this bill had become what some call a sport in our state and that is "administrator bashing" and felt that was unfair.

Jess Long, taxpayer and citizen of Helena spoke in opposition to HB 43 saying fairness is a primary issue and if anybody thought by going back to a classroom situation in a school that doesn't allow for that person to be on a seniority list is fair, he could not understand their thinking. If you are really concerned about the salary disparity, you should go after the MEA and their collective bargaining process in which they allow an $18,000 teacher versus a $36,000 teacher and in a RIF situation dismissing the $36,000 teacher in order to accommodate more faculty increase.

Informational Testimony:

None.

Questions From Committee Members and Responses:

Senator Hertel asked Representative McCulloch about line 5 in the title of the bill where it says a "tenured school administrator". He asked if there was such a thing as a "tenured" school administrator and Representative McCulloch said he believed there is, they fall under the same tenure statutes as a teacher.

Senator Hertel said he did not realize that administrators could be tenured. He was told principals could be, superintendents could not.

Senator Hertel asked if it is absolute law that principals can not take the reduction in pay if they so desire. If their position were RIF'd and a teacher's position was open, he asked if they could receive a teacher's salary or would they absolutely have to be paid their previous salary as a principal. Representative McCulloch said they would have to receive the

administrators salary, and it was in HB 105 which we did two years ago. If they were hired after October 1991, then they could take the lesser salary, if before October 1991 they would have to take the higher salary.

Senator Hertel asked if in this bill, where that clause is being taken off, if it would have any bearing on that decision and Representative McCulloch said his bill said any administrator who went back to the classroom would receive teacher's salary.

Senator Brown said they had a principal who had obtained seniority and the school board decided to remove him but since he had seniority, they made him a biology teacher, which he had been prior to being a principal. This was a relatively small school district and about ten years ago but he was earning about $32,000 a year as a biology teacher, twice as much as any of the rest of the teachers. He was depressed over what had happened, did not work very hard and was a mediocre teacher and other teachers as well as the Board thought it unfair. He could also sympathize with the principals being caught in this "no-man's land", and while the Superintendent works for the Board, the teachers have their own organization, so when the principals come in and ask who bargains for them, he could relate to their problem. He asked for a comment on the statement Mr. Frazier made for the late effective date on this bill to at least give the districts and the bargaining units an opportunity to see if they want to put these people on the seniority list. Representative McCulloch said there are a lot of advantages, one is a higher increase in salary, a different job position, and different responsibilities. The draw backs are that if a RIF comes, in certain situations, that would happen. In speaking to the effective date and his fear of putting it off for a few years--we have had proposals by our Governor, Senator Towe's bill, Representative Wanzenried's bill, etc. If you put it off for a year and the crisis happens, then it will not do what he thought was fair.

Senator Hertel asked Mr. Frazier the same question concerning the salary reduction for a principal if they so agreed. Mr. Frazier said there have been several cases in the state where the principal has been returned to the classroom at a teacher's salary and it was agreeable to that person. It has happened in Class C schools and happened in a AA school but had to be an agreement with the principal that he would take a reduction. In the case the proponents are talking about, that principal fought the reduction, and by law was entitled to it, but there have been a lot of agreements where the principal has gone back to a teaching position for less money.

Chair Blaylock asked Representative McCulloch if he had time to analyze the proposed amendment and was told no, it was just given to him today. Chair Blaylock read "when a tenured teacher, serving in an administrative position is assigned to a teaching position with a district, the district shall recognize the teacher's time of service in the administrative position for

purposes of teacher seniority in any applicable board policy or collective bargaining agreement in the district". Rep. McCulloch said he assumed that would only apply to those districts that had a seniority position for RIF policy for teachers. He asked Ms. McClure if that was correct and she said that was what she believed it was saying--if you had a board policy, if you had a collective bargaining agreement,

Chair Blaylock said we talked a lot about fairness in this hearing, and it seemed if a tenure teacher is moved up to an administrative position and serves there for five years or so, then is RIF'd and sent back to the teaching position, it would be fair to say they will get credit on the "ladder" for those years as an administrator, and would be paid whatever their rate increase would amount to. Representative McCulloch said this fairness he does not have a problem, but if we take this a step further, but if we have 272 districts that have no seniority for their teachers, do we include those also. He said he would not be opposed to an amendment if he had time to look at it and discuss it with this committee before any action is taken. Loren Frazier had approached him with an amendment yesterday and Rep. McCulloch told him he would check into it. At that time it did not seem to be within the scope of the bill and had not seen the amendment before today.

Closing by Sponsor:

Representative McCulloch said Mr. Frazier had said a principal could agree to taking a lower salary as a teacher, but if they decided to renege on that they could, by statute, even though they have made that agreement, they are still covered and can renege on the agreement. He pointed out there have been people who have been administrators that have gone back into the classroom that this does not affect because the statute does not cover them. Those people are not affected by the statutes. The salary disparity is because they have been there and they will have a higher salary than a teacher who has been there one year. Mr. Frazier had estimated that between 60% and 80% do not allow seniority in their contracts and it is a fact that 72% of the districts do not allow seniority for teachers. He said this bill deals with a RIF situation and there will not be districts that hire more administrators when they are in a RIF situation. He said it was not his intention to "bash" administrators, he is only looking at what is fair and equitable. He said he would have to disagree with the principal who spoke since he believed the teachers are the leaders. His last disagreement was where they talked about contract negotiations in Billings and took a salary increase and laid off teachers as a result of it. He said that was far from the truth since he had negotiated the last six contracts in Billings. When they laid off 104 teachers, there was no salary increase and in the last two years they sat down with the school board members and come out with a WIN-WIN proposal and they have never taken a salary increase while they laid off teachers. At the present time they have a letter of agreement that will go into effect the next couple of weeks that

says if this Legislative body reduces the foundation program, that we open up our contract negotiations and we don't lay off teachers. He urged the committee to look favorably at this bill because he believed it added fairness as well as accountability to the taxpayers of Montana.

HEARING ON HOUSE BILL 194

Opening Statement by Sponsor:

Representative Carley Tuss, House District 35, Black Eagle, said this bill was introduced at the request of the OPI and would make permanent and clarify the language of the bill and would remove the sunset provision.It also allows safety education for elementary and middle school children relative to pedestrian, passenger and bicycle safety.

Proponents' Testimony:

Gayle Gray, Assistant Superintendent, OPI, said the purpose of this bill is to make permanent and to clarify the definition of traffic education. Traffic education is not just highschool drivers education, but is instruction that has it's foundation in the elementary and should be integrated in the K-12 curriculum and includes bicycle, pedestrian and school bus safety instruction. The bill eliminates the sunset provision that was put on two years ago and is primarily housekeeping.

Bruce Moerer, MSBA, said they support the bill.

Loren Frazier, SAM, said they support the bill.

Opponents' Testimony:

None.

Informational Testimony:

None.

Questions From Committee Members and Responses:

Senator Toews asked who pays for this education in the schools and Ms. Gray said the cost of this is primarily paid through the assessment of fines such as traffic fines, DUI fines, etc. It is not a general fund type of situation. She said the motorcycle endorsement is about $2 apiece which goes into motorcycle safety. The fund is associated with vehicles, user fees and those that are convicted of abusing the safety laws.

Chair Blaylock said in teaching this, how many other things are we pulling down on that fund for and Ms. Gray said this fund is just limited to traffic education. It is just a broader definition of what traffic education is. She emphasized that not

ROLL CALL

SENATE COMMITTEE EDUCATION DATE 2/5/93

NAME	PRESENT	ABSENT	EXCUSED
SENATOR BLAYLOCK, Chair	✓		
SENATOR FRITZ, V.C.	✓		
SENATOR BROWN	✓		
SENATOR NATHE	✓		
SENATOR TOEWS	✓		
SENATOR HERTEL	✓		
SENATOR WILSON	✓		
SENATOR WATERMAN	✓		
SENATOR YELLOWTAIL			✓
SENATOR STANG	✓		

FC8

Attach to each day's minutes

HOUSE OF REPRESENTATIVES

Education and Cultural Resources COMMITTEE

ROLL CALL DATE 1/22/93

NAME	PRESENT	ABSENT	EXCUSED
REP. SONNY HANSON , CHAIR	✓		
REP. ALVIN ELLIS , VICE-CHAIR	✓		
REP. DIANA WYATT , VICE-CHAIR		✓	
REP. RAY BRANDEWIE	✓		
REP. FRITZ DAILY	✓		
REP. ERVIN DAVIS	✓		
REP. ED DOLEZAL	✓		
REP. DAN HARRINGTON		✓	
REP. JACK HERRON	✓		
REP. BOB GERVAIS	✓		
REP. BEA MCCARTHY	✓		
REP. SCOTT MCCULLOCH	✓		
REP. NORM MILLS	✓		
REP. BILL REHBEIN	✓		
REP. SAM ROSE	✓		
REP. DICK SIMPKINS	✓		
REP. WILBUR SPRING	✓		
REP. NORM WALLIN	✓		

ARTICLE XIV: REDUCTION IN FORCE

SENATE EDUCATION
EXHIBIT NO. 2
DATE 2/5
BILL NO. HB 43

14.1 PROCEDURE

In the event the School District determines to reduce staff the provision of the Article shall apply.

14.2 DEFINITION

A. Teacher: The term teacher used herein shall refer only to tenured teachers, regularly employed at least half time by the School District.

B. Qualified: Qualified means a tenured teacher who is certified by the State Department of Public Instruction for a position established by the School District, and who has taught in such subject matter category for at least one semester within the last 5 years while a member of the Havre School District.

C. Subject Matter: Subject matter shall mean such categories as are determined by the State Department of Public Instruction for certification purposes.

D. Days: Means teacher duty days, unless otherwise stated.

14.3 SENIORITY

A. Seniority shall mean the number of days of continuous service of the regular school year (excluding summer session and extended employment), commencing with the first day of actual service with the School District including authorized leave of absences allowed by the School District pursuant to this Agreement.

B. Probationary teachers shall not acquire seniority until such teacher acquires tenure and upon acquisition of tenure, the seniority date shall relate back to his/her first day of continuous service. Long term substitute service under contract, immediately prior to regular contract service shall be counted toward a teacher's seniority.

C. In determining the list of seniority, an employee whose employment has been legally terminated by resignation, or terminated but whose employment was subsequently reinstated without interruption, shall be deemed to be continuous service.

Havre

HAVRE A1

D. Certified teachers employed by the School District in professional positions outside the teachers's unit, i.e.,

administrators, shall maintain seniority in the teacher' unit consistent with total teaching service in the Schoc District provided the administrative employee is qualifie and certified as described herein.

E. In the event that seniority is equal for purposes c layoff, the second order will be determined by th educational placement on the salary schedule. The fina order, if needed, shall be determined by lot.

14.4 SENIORITY LIST

A. On or about December 1 of each school year, the Schoc District shall cause a seniority list, (by name, date c employment, qualification, and certification), to b prepared from its records. It shall thereupon post suc list in an official place in each school building.

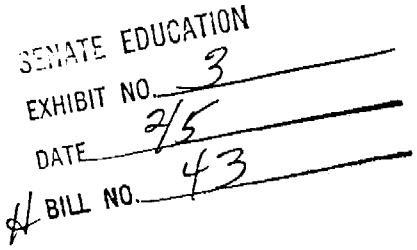
B. Any person whose name appears on such list, and who ma disagree with the findings of the School District, and th order of seniority on said list, shall have fourteen (14 days from the date of postings, to supply writte documentation, proof and request for seniority change, t the School District's Superintendent's Office.

C. Within fourteen (14) days thereafter, the Schoc District shall evaluate any and all such writte communications regarding the order of seniority containe in said list, and make such changes as the School Distric deems warranted. The final seniority list shall thereupo be prepared by the School District, and shall be posted i each school building. Such list shall be binding on th District and all teachers shown thereon. Each yea thereafter, the School District shall cause such seniorit list to be updated. Such list shall govern the applicatio of Reduction in Staff, Article XIV, until thereafte revised.

D. Any person disagreeing with the final seniority lis prepared pursuant to subd. C. above may pursue the matte through the Grievance Procedure provided by Article XI.

14.5 VOLUNTARY LAYOFF

Senior teachers may accept voluntary lay-off during period when the School District is placing tenured teache on layoff. Teachers accepting voluntary layoff will, as all teachers on layoff, continue to accrue seniorit Voluntary layoff, shall be for a period of the succeedi school year unless altered by mutual agreement. Teache wishing to be recalled from voluntary layoff for the ne



HB 43

376 School Districts (Combined)

198 Have Collective Bargaining Contracts for Teachers

178 **DO NOT** Have Collective Bargaining Contracts for Teachers

- Of the 198 districts that have collective bargaining contracts, 94 **DO NOT** have seniority based layoff provisions.

* *

178 No collective bargaining contracts, no seniority for RIF

\+

94 Collective bargaining contracts, no seniority for RIF

272 Districts have **NO** seniority for RIF

72% Of the Districts have **NO** seniority for RIF

EXHIBIT NO. 4
DATE 2/5
BILL NO. 43

Amendments to House Bill No. 43
Third Reading Copy

Requested by Senator Nathe
For the Senate Committee on Education and Cultural Resources

Prepared by Eddye McClure
February 5, 1993

1. Title, line 7.
Following: ";"
Insert: "PROVIDING FOR SENIORITY RECOGNITION; AMENDING SECTION 20-4-208, MCA;"

2. Title, lines 8 and 9.
Strike: "AN" on line 8
Strike: "IMMEDIATE" on line 9
Following: "EFFECTIVE"
Insert: "DATES"

3. Page 1, line 11.
Following: line 12
Insert: "**Section 1.** Section 20-4-208, MCA, is amended to read:

"**20-4-208. Transfer from administrative position.** (1) A tenure teacher serving in an administrative position may be assigned to a teaching position with a reduction in salary when the economic conditions of the district require a reduction of administrative staff. The salary for the new position must be the same as the salary that the teacher would have received if the teacher had been continuously employed in the new position rather than in the administrative position.

(2) When a tenure teacher serving in an administrative position is assigned to a teaching position with a district, the district shall recognize the tenure teacher's time of service in the administrative position for purposes of teacher seniority in any applicable board policy or collective bargaining agreement in the district.

~~(2)~~ (3) As used in this section, the term:

(a) "administrative position" means a position that the trustees of a district designate as administrative or supervisory in nature, not including the position of district superintendent; and

(b) "reduction of administrative staff" is limited to reductions necessary because of declining enrollment or financial exigency.

~~(3)~~ (4) When a tenure teacher serving in an administrative position is to be transferred under this section, the teacher must be notified prior to May 1 by certified letter or by personal notification for which a signed receipt must be obtained. The notification must include:

(a) a statement of the reason or reasons for the reduction of administrative staff; and

(b) a printed copy of this section for the teacher's information.

~~(4)~~ (5) A tenure teacher who receives notice under subsection ~~(3)~~(4) may request in writing, within 10 days of the notice, a hearing before the board of trustees. The board of trustees shall set the hearing not less than 10 days or more than 20 days from receipt of the request unless both parties agree to an extension. If a hearing is requested, the trustees shall:

(a) conduct the hearing to determine whether the reason or reasons for the transfer were in compliance with the provisions of subsection (1); and

(b) resolve at the end of the hearing to uphold the transfer or to reject the transfer and return the teacher to the administrative position.

~~(5)~~ (6) A tenure teacher may appeal a decision under this section to the county superintendent as provided in 20-3-210. The county superintendent shall conduct a hearing to determine whether the reason or reasons for the transfer were in compliance with the provisions of subsection (1).

~~(6)~~ (7) The teacher or the trustees may appeal the determination of the county superintendent to the superintendent of public instruction as provided in 20-3-107.

~~(7)~~ (8) A tenure teacher who is transferred to a teaching position under this section must be offered the next comparable administrative position for which he is endorsed that becomes available in the district.""

{*Internal References to 20-4-208: 20-4-203*}

Renumber: subsequent sections

4. Page 1, line 15.
Following: "**Effective**"
Strike: "**date**"
Insert: "**dates**"
Following: "."
Insert: "(1)"
Strike: "[This act] is"
Insert: "[Section 2 and this section] are"

5. Page 1, line 16.
Following: line 15
Insert: "(2) [Section 1] is effective July 1, 1994."

STATE EDUCATION
EXHIBIT NO. 5
DATE 2/5/93
BILL NO 43

ARTICLE XIV: REDUCTION IN FORCE

~~14.1 PROCEDURE~~

In the event the School District determines to reduce staff the provision of the Article shall apply.

14.2 DEFINITION

A. Teacher: The term teacher used herein shall refer only to tenured teachers, regularly employed at least half time by the School District.

B. Qualified: Qualified means a tenured teacher who is certified by the State Department of Public Instruction for a position established by the School District, and who has taught in such subject matter category for at least one semester within the last 5 years while a member of the Havre School District.

C. Subject Matter: Subject matter shall mean such categories as are determined by the State Department of Public Instruction for certification purposes.

D. Days: Means teacher duty days, unless otherwise stated.

14.3 SENIORITY

A. Seniority shall mean the number of days of continuous service of the regular school year (excluding summer session and extended employment), commencing with the first day of actual service with the School District including authorized leave of absences allowed by the School District pursuant to this Agreement.

B. Probationary teachers shall not acquire seniority until such teacher acquires tenure and upon acquisition of tenure, the seniority date shall relate back to his/her first day of continuous service. Long term substitute service under contract, immediately prior to regular contract service shall be counted toward a teacher's seniority.

C. In determining the list of seniority, an employee whose employment has been legally terminated by resignation, or terminated but whose employment was subsequently reinstated without interruption, shall be deemed to be continuous service.

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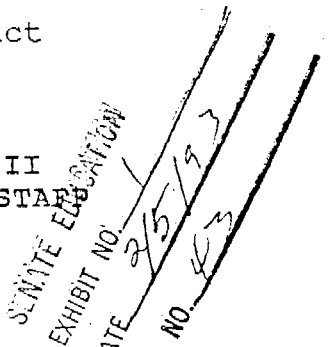
HAVRE P1

D. Certified teachers employed by the School District in professional positions outside the teachers's unit, i.e.,

Billings Education Association Contract



ARTICLE XVIII
REDUCTION IN STAFF

Section 3. Seniority:

Subd. 1. Seniority shall mean the number of days of continuous service of the regular school year (excluding summer session and extended employment), commencing with the first day of actual service in the School District including authorized leave of absences allowed by the School District pursuant to this Agreement.

Subd. 2. Probationary teachers shall not acquire seniority until such teacher acquires tenure and upon acquisition of tenures, the seniority date shall relate back to a teacher's first day of continuous services. Continuous service shall include a teacher who is under contract for more than ninety (90) days in a single school year. Long term substitute service under contract, immediately prior to regular contract service, shall be counted toward a teacher's seniority.

Subd. 3. In determining the list of seniority, an employee whose employment has been legally terminated by resignation, or terminated but whose employment was subsequently reinstated without interruption, shall be deemed to be continuous service.

Subd. 4. Certified teachers employed by the School District in professional positions outside the teacher's unit, i.e., administrators, shall maintain seniority in the teacher's unit consistent with total administrative and teaching service in the School District, provided the administrative employee is qualified and certified as described herein.

Subd. 5. In the event that seniority is equal for purposes of layoff, order of seniority shall be determined by lot.

administrators, shall maintain seniority in the teacher' unit consistent with total teaching service in the Schoc District provided the administrative employee is qualifie and certified as described herein.

E. In the event that seniority is equal for purposes c layoff, the second order will be determined by th educational placement on the salary schedule. The fina order, if needed, shall be determined by lot.

14.4 SENIORITY LIST

A. On or about December 1 of each school year, the Schoc District shall cause a seniority list, (by name, date c employment, qualification, and certification), to b prepared from its records. It shall thereupon post suc list in an official place in each school building.

B. Any person whose name appears on such list, and who ma disagree with the findings of the School District, and th order of seniority on said list, shall have fourteen (14 days from the date of postings, to supply writte documentation, proof and request for seniority change, t the School District's Superintendent's Office.

C. Within fourteen (14) days thereafter, the Schoc District shall evaluate any and all such writte communications regarding the order of seniority containe in said list, and make such changes as the School Distric deems warranted. The final seniority list shall thereupc be prepared by the School District, and shall be posted i each school building. Such list shall be binding on th District and all teachers shown thereon. Each yea thereafter, the School District shall cause such seniorit list to be updated. Such list shall govern the applicatic of Reduction in Staff, Article XIV, until thereaft revised.

D. Any person disagreeing with the final seniority lis prepared pursuant to subd. C. above may pursue the matt through the Grievance Procedure provided by Article XI.

14.5 VOLUNTARY LAYOFF

Senior teachers may accept voluntary lay-off during period when the School District is placing tenured teache on layoff. Teachers accepting voluntary layoff will, as all teachers on layoff, continue to accrue seniorit Voluntary layoff, shall be for a period of the succeedi school year unless altered by mutual agreement. Teache wishing to be recalled from voluntary layoff for the ne

DATE 2/5/93

SENATE COMMITTEE ON Education

BILLS BEING HEARD TODAY: HB 43, HB 194

Name	Representing	Bill No.	Check One: Support	Oppose
Kelly Sandgrue	MAEMSP	43	✓	
Cindy Hollis	MAEMSP	43		✓
Lorraine Anderson	Billings Ed. Assoc.	43	✓	
Dennis Parkin	Montana Ed Assoc.	43	✓	
Gail Gray	OPI.	HB 149	✓	
Nancy Robbins	MEA			
Bruce W. Moerer	MSBA	HB 43	X	
Bruce W. Moerer	MSBA	SB 145	X	
Steve Henry	BEA	HB43	X	
Jerry Lukkarila	GFEA	HB43	X	
Keith W. Shibany	BEA		✓	
Loran Frazier	Self			✓
Julie Hasler	HEA	HB43	✓	
Betty Thompson	KEA	HB 43	✓	
Val Iverson	KEA	HB 43		
Rod Carey	"	"	"	
Ruth Jensen	"	"	✓	
Don Lamp				
Daniel Red	MAEMSP	HB43	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

F10

DATE 2/5/93

SENATE COMMITTEE ON _____

BILLS BEING HEARD TODAY: _____

Name	Representing	Bill No.	Check One Support	Oppose
Don Lowry	AFEA/NEA	#43	✓	
Linda Nelson	HD 19	43	✓	
Garth Cox	~~AFT~~ MEA/PEA	43	✓	
Hallie Olson	NEA/NEA	43	✓	
Eric Hein	MCK	43	✓	
Jerry Long	Self	43		✓
Loran Frazier	SAM	194	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

F10

Senator Brown asked if this has an impact on the fiscal note since it changes the schools that would qualify. Jack Copps, OPI, said there would be a fiscal impact in the larger schools with more than 50 students but less than 6% where they would become eligible for budget amendments for enrollment increases. With 50 students they would become eligible much sooner, and it could impact one school within a district. Chair Blaylock said this bill would increase the fairness, but would also increase the price.

Senator Waterman thought the way the bill was written, if you went over the 6% they got funded for any increase in enrollment and asked if that was correct. Mr. Copps said you were funded for anything greater than the 6% and this bill says if you hit the 6% level you are funded from zero all the way through. Senator Waterman said then the amendment would say 6% or 50 students. Mr. Copps said that was correct, you may not have to reach the 6%.

No action was taken on SB 208 at this time.

EXECUTIVE ACTION ON HOUSE BILL 43

Discussion: Chair Blaylock said this bill would repeal the grandfather clause for school administrator with pay cut.

Senator Nathe said he had some amendments for HB 43 which had been prepared by Ms. McClure, they are a new version and are acceptable by Representative McCulloch. (exhibit 1)

Motion: Senator Nathe moved to amend House Bill 43. (exhibit 1)

Discussion: Ms. McClure said the question of the seniority rights of those teachers who had been in an administrative position and moved back had been discussed in committee. Representative McCulloch felt the language in the first amendment did not make it clear that if a board policy or collective bargaining agreement had a provision that protects seniority rights, that a district would honor that right. She said they just reworked the language, the date would also be effective upon passage and approval and the original bill had a delayed effective date.

Vote: The motion to adopt the amendments (exhibit 1) CARRIED, Senators Yellowtail and Fritz were absent.

Motion/Vote: Senator Toews moved House Bill 43 BE CONCURRED IN AS AMENDED. Motion PASSED with Senators Yellowtail and Fritz absent. Senator Brown will carry the bill on the Senate floor.

EXECUTIVE ACTION ON HOUSE BILL 141

Discussion: Chair Blaylock asked if the committee was ready to

ROLL CALL

SENATE COMMITTEE EDUCATION DATE 2/12/93

NAME	PRESENT	ABSENT	EXCUSED
SENATOR BLAYLOCK, Chair	✓		
SENATOR FRITZ, V.C.	✓		
SENATOR BROWN	✓		
SENATOR NATHE	✓		
SENATOR TOEWS	✓		
SENATOR HERTEL	✓		
SENATOR WILSON	✓		
SENATOR WATERMAN	✓		
SENATOR YELLOWTAIL	✓		
SENATOR STANG	✓		

FC8

Attach to each day's minutes

SENATE STANDING COMMITTEE REPORT

February 13, 1993

MR. PRESIDENT:

We, your committee on Education and Cultural Resources having had under consideration House Bill No. 43 (first reading copy -- white), respectfully report that House Bill No. 43 be amended as follows and as so amended be concurred in.

Signed: Chet Blaylock
Senator Chet Blaylock, Chair

That such amendments read:

1. Title, line 7.
Following: ";"
Insert: "PROVIDING FOR SENIORITY RECOGNITION; AMENDING SECTION 20-4-208, MCA;"

2. Page 1, line 12.
Following: line 11
Insert: "Section 1. Section 20-4-208, MCA, is amended to read:

"20-4-208. Transfer from administrative position. (1) A tenure teacher serving in an administrative position may be assigned to a teaching position with a reduction in salary when the economic conditions of the district require a reduction of administrative staff. The salary for the new position must be the same as the salary that the teacher would have received if the teacher had been continuously employed in the new position rather than in the administrative position.

(2) If a board policy or a collective bargaining agreement provides seniority rights for teachers, a district that assigns a tenure teacher serving in an administrative position to a teaching position shall recognize for teacher seniority purposes the tenure teacher's time of service in the administrative position.

~~(2)~~ (3) As used in this section, the term:

(a) "administrative position" means a position that the trustees of a district designate as administrative or supervisory in nature, not including the position of district superintendent; and

(b) "reduction of administrative staff" is limited to reductions necessary because of declining enrollment or financial exigency.

~~(3)~~ (4) When a tenure teacher serving in an administrative position is to be transferred under this section, the teacher must be notified prior to May 1 by certified letter or by personal notification for which a signed receipt must be obtained. The notification must include:

(a) a statement of the reason or reasons for the reduction of administrative staff; and

(b) a printed copy of this section for the teacher's information.

~~(4)~~ (5) A tenure teacher who receives notice under subsection ~~(3)~~(4) may request in writing, within 10 days of the notice, a hearing before the board of trustees. The board of trustees shall set the hearing not less than 10 days or more than 20 days from receipt of the request unless both parties agree to an extension. If a hearing is requested, the trustees shall:

(a) conduct the hearing to determine whether the reason or reasons for the transfer were in compliance with the provisions of subsection (1); and

(b) resolve at the end of the hearing to uphold the transfer or to reject the transfer and return the teacher to the administrative position.

~~(5)~~ (6) A tenure teacher may appeal a decision under this section to the county superintendent as provided in 20-3-210. The county superintendent shall conduct a hearing to determine whether the reason or reasons for the transfer were in compliance with the provisions of subsection (1).

~~(6)~~ (7) The teacher or the trustees may appeal the determination of the county superintendent to the superintendent of public instruction as provided in 20-3-107.

~~(7)~~ (8) A tenure teacher who is transferred to a teaching position under this section must be offered the next comparable administrative position for which he is endorsed that becomes available in the district.""

Renumber: subsequent sections

-END-

SENATE EDUCATION
EXHIBIT NO. 1
DATE 2/12/93
BILL NO. HB 43

Amendments to House Bill No. 43
Third Reading Copy

Requested by Representative McCulloch
For the Senate Committee on Education and Cultural Resources

Prepared by Eddye McClure
February 9, 1993

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{*Internal References to 20-4-208: 20-4-203*}

Renumber: subsequent sections